

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - FLINT

JESSE WHITE and KIMBERLY WHITE,
husband and wife,

Plaintiff(s),

CASE NO.: 4:05-CV-40018-FL

vs.

HON. PAUL V. GADOLA
MAG. JUDGE WALLACE CAPEL, JR.

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.,

Defendant(s).

_____/

ORDER DENYING PLAINTIFFS’
MOTION TO REVERSE JUDGMENT AND REINSTATE
DEFAULT BASED ON NEW EVIDENCE

This matter is before the Court on the Plaintiffs’ “Motion To Reverse Judgment And Reinstate Default Based On New Evidence,” filed, on July 6, 2006. In support of the motion to reverse the judgment, the Plaintiffs’ state that the judgment should be set aside because of a mistake on their part in relying on the address listed on the “Sheriff’s Deed” to make service upon the Defendant. They further state that the improper service was not a deliberate act, but that it was based upon information erroneous information by the Defendants.

Having considered the motion and the reasons stated therein, the undersigned is inclined to deny this motion. The arguments being put forth by the Plaintiffs in this matter is a re-statement of issues that have already been raised and addressed at hearings previously conducted in this Court.

In further analyzing this matter, this motion appears to be more reflective of a motion for reconsideration and shall be treated as such. As a general principle, motions for reconsideration are granted if the moving party demonstrates: (1) a clear error of law; (2) newly discovered evidence

that was not previously available to the parties; or (3) an intervening change in controlling law. GenCorp., Inc v Am.Internat'l Underwriters, 178 F.3d 804, 834 (6th. Cir. 1999). Motions for reconsideration do not allow the losing party to “repeat arguments previously considered and rejected, or to raise new legal theories that should have been raised earlier.” Nat'l Metal Finishing Co. v BarclaysAmerican/Commercial, Inc., 899 F 2nd. 119, 123 (1st. Cir. 1990); see also Am. Marietta Corp. v Essroc Cement Corp., Case No. 01-3752, 59 Fed. Appx. 668, 671-72, 2003 U.S. App. Lexis 3211, at *9 (6th. Cir. Feb 19, 2003) (motion for reconsideration “should not be used to re-litigate issues previously considered.”);

Therefore, the motion to reverse judgment and reinstate default is hereby **DENIED**.

IT IS SO ORDERED.

The parties are hereby informed that any objection to this order must be filed with the district court within 10 days after service, pursuant to Rule 72(a), Federal Rules of Civil Procedure.

DATED: July 28, 2006

s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on **July 28, 2006**, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification of such filing to the following: Susan E. Callaghan, Esq., and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participant(s) Jesse White and Kimberly White, 1293 18th. St., Detroit, MI 48216

s/James P. Peltier
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